

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Falconnier, et al.

Serial No.: 09/423,665

Filed: November 22, 1999

Via Facsimile: 703-305-3602

Group Art Unit: 1761

Examiner: C. Scherren

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GROUP 1700

For: NOVEL CLEAR BEVERAGE OPTIONALLY ALCOHOLIC CONTAINING ANETHOL AND CLOUDY DILUTED BEVERAGE OBTAINED BY DILUTION

TRANSMITTAL

Assistant Commissioner of Patents
Washington, D.C. 20231

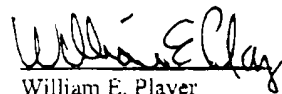
Sir:

Transmitted herewith via facsimile is Request for New, Substitute Office Action for Failure to Examine Claims in the above-captioned application.

Respectfully submitted,

JACOBSON, PRICE, HOLMAN & STERN, PLLC

By:



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Falconnier, et al.

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For: NOVEL CLEAR BEVERAGE, OPTIONALLY ALCOHOLIC CONTAINING ANETHOL AND CLOUDY DILUTED BEVERAGE OBTAINED BY DILUTION

REQUEST FOR NEW, SUBSTITUTE OFFICE ACTION
FOR FAILURE TO EXAMINE CLAIMS

Assistant Commissioner of Patents
Washington, D.C. 20231

Sir:

Applicants submit the instant request for a new Office action, because original claims 6-19 were refused examination on the merits, as reflected in the instant Office action, mailed October 3, 2000.

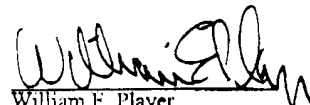
According to the instant Office action, claims 6-19 were not examined on the merits for allegedly being improper multiple dependent claims. The allegation is incorrect.

Claims 6-19 are not multiple dependent claims, improper or otherwise. By preliminary amendment filed together with the instant application, any multiple dependencies in claims 6-19 were eliminated.

An "examiner's action will be complete as to all matters," 37 CFR 1.104(b), which includes "examination ... with respect to ... patentability of the invention *as claimed*," 37 CFR 1.104(a)(1), *emphasis added*. Since claims 6-19 were not examined with respect to patentability, the examination reflected in the instant Office action was incomplete, i.e., the Office action does not satisfy the requirements of Rule 104. MPEP §§ 707, 707.07.

Accordingly, applicants request that the PTO examine present claims 6-19 on the merits and issue a new Office action, superseding the instant Office action, which reflects the examination claims 6-19 and restarts the time period for response, commensurate therewith.

Respectfully submitted,


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